

MEDICAL STATEMENTS

APRIL 7 (legislative day, MARCH 30), 1942.—Ordered to be printed

Mr. REYNOLDS, from the Committee on Military Affairs, submitted the following

REPORT

[To accompany S. 2368]

The Senate Committee on Military Affairs, to whom was referred the bill (S. 2368) to amend the joint resolution approved August 27, 1940 (54 Stat. 858), as amended, and the Selective Training and Service Act of 1940 (54 Stat. 885), as amended, so as to remove the requirement that medical statements shall be furnished to those persons performing military service thereunder, having considered the same, report favorably thereon with recommendation that it do pass.

This is a bill to amend the joint resolution approved August 27, 1940 (54 Stat. 858), as amended, and the Selective Training and Service Act of 1940 (54 Stat. 885), as amended, so as to remove the requirement that medical statements shall be furnished to those persons performing military service thereunder.

Those statutes provide that members of the Reserve components of the land or naval forces called to active duty and persons inducted into training and service, under provisions of those statutes, who satisfactorily complete such active duty or period of training and service, will, upon completion thereof, be entitled to a certificate to that effect, which shall include a record of any proficiency or merit attained; and in addition shall be given a physical examination at the beginning of such active duty or training and service, and a medical statement showing any defects noted on such examination, and, upon the completion of such active duty or training and service, each such person shall be given another physical examination and a medical statement showing any injuries, illnesses, or disabilities suffered during such period of active duty or of training and service.

The purpose of this bill is to eliminate from the provisions of section 3 (a) of the joint resolution and of section 8 (a) of the Selective Training and Service Act the requirement of furnishing the soldier the medical statements provided therein.

To insure compliance with this requirement of the mentioned statutes the War Department gives to all persons called to military service or training thereunder, a copy of their physical examination the beginning of their active duty, or training and service. For the medical statement to be furnished upon completion of their active duty, or training and service, it was necessary to devise an additional record known as War Department, A. G. O. Form No. 258 (physical record), on which is recorded in chronological order over the signature of the attending surgeon the place, date, and nature of all injuries, illnesses, or disabilities suffered during such period of active duty, or training and service, including all disabilities or defects noted on the physical examination upon completion of active duty, or training and service, and which are also recorded on the physical examination and disability discharge forms. The duplicate copy of this medical statement (physical record) is given to the soldier and the original is filed in the permanent records of the War Department.

The proper maintenance of this record requires that it accompany the soldier whenever he reports at sick call, dental clinic, out-patient clinic, or when admitted to a hospital. Its compilation is burdensome and involves a complete duplication of effort because all of its recorded items are included in the permanent medical records of the War Department, and are furnished in complete detail to the Veterans' Administration or to the man himself whenever required for legitimate purposes. Regardless of the medical statements furnished these men under the provisions of the statutes mentioned, the Veterans' Administration requires a complete medical history from the War Department in every claim for pension, which involves a further duplication of effort as well as dual filing of Government records with obvious aggravation of the existing and future space problem. Additionally, the War Department is being called upon in constantly increasing instances to furnish copies of this medical record to former soldiers whose first copies have already been lost or destroyed.

In peacetime the compilation of this medical record in the field has involved great administrative difficulties. Its proper maintenance under war conditions is practically impossible because obviously injuries, illnesses, and disabilities will be incurred under circumstances which prevent a proper recording of their incidence, with the result that the intended purpose of the record is defeated. On the other hand, the keeping of the permanent medical record, including battle casualties, is the basis of the Army's medical records and is carefully maintained at all times.

Further complicating the compilation and control of this record are considerations prompted by a report of the committee on neuropsychiatry of the National Research Council, which was referred to the chairman of the Committee on Military Affairs of the United States Senate by the Administrator of the Federal Security Agency on July 22, 1941, and which reads as follows:

The committee on neuropsychiatry has viewed with some concern the existing provisions of the Selective Service law, which makes accessible to the selectee or the registrant full information regarding his record, including diagnosis. It has been pointed out in the discussions of the committee that in general medical practice, patients are not permitted access to their medical records, this practice being intended to shield patients from unhealthful suggestions. While this is

true in general medical practice, it is particularly true in dealing with persons suffering from neuropsychiatric conditions. To make accessible to certain patients of this type the information regarding their diagnosis and condition might have a decidedly harmful effect upon them and might interfere substantially with their rehabilitation in the community. The committee on neuropsychiatry at its meeting on March 21, 1941, therefore voted to submit the following resolution to the health and medical committee for its consideration, realizing fully that the carrying out of this resolution would probably involve some change in the existing law:

Resolved, That it is the consensus of opinion of this committee that, in the interests of the registrant or man in service, suitable restrictions should be placed on his right of access to his medical record with the draft board or with the armed services, in the interest of his mental health.

The suggestions contained in the foregoing report have already found acceptance in section 30, World War Veterans Act, as amended, which limits disclosures to a veteran claimant to "matters concerning himself alone, when in the judgment of the director such disclosure would not be injurious to the physical or mental health of the claimant."

Recognizing the merit of these considerations the War Department views with considerable concern the continuation of the practice of furnishing medical statements to men performing military service under the provisions of the statutes mentioned because of the obvious repercussions that may ensue. When it becomes generally known that these statements are given to men released from military service or training, they will be asked to show them to prospective employers, with obviously unfavorable results when they indicate any physical or mental condition that might jeopardize their employment. To delete from these statements all reference to mental conditions, however, would be violative of the specific provisions of the statutes. Any legislative remedy which failed to consider elimination of other medical disclosures deemed harmful in accepted medical practice would not fulfill the purpose of protection. On the other hand, administration of legislation that sought protection against the disclosure of any information which in the judgment of proper medical authority would be injurious to the physical or mental health of persons performing military service would involve such far-reaching difficulties as to practically vitiate its purpose. For should Congress provide that disclosures of physical or mental conditions might be withheld at the discretion of the medical authorities, and a man for whom that protection was intended should demand a statement or the reason for its denial, the result would be the defeat of the very safeguard it was desired to establish.

The medical records of the War Department are presently available for adjudication of claims for benefits provided by Congress for persons who have rendered military service in greater detail than can be furnished in medical statements comprehended by the statutes which this bill proposes to amend. Reports from these permanent records are furnished by the War Department upon proper request with a minimum of delay. They serve a broader and more practical purpose than the medical statements now required by the statutes mentioned, and the conditions governing their release afford desired protection to the Government and the soldier alike.

The Veterans' Administration in commenting on this bill advised the Director of the Budget on February 3, 1942, as follows:

If in actual practice the full intent of the existing laws in this regard could be met, the Veterans' Administration is of the opinion that the result would be beneficial in a number of cases. However, the practicability of effectuating the purpose of the statutory provisions here involved is a matter concerning which the recommendations of the War Department should govern as that Department is responsible for administration of such laws.

COMMITTEE MEMO RE S. 2368

This bill proposes to amend the following sentence of the Selective Training and Service Act, and the act ordering the National Guard and Reserve components into active service:

In addition, each such person who is inducted into the land or naval forces under this Act for training and service shall be given a physical examination at the beginning of such training and service and a medical statement showing any physical defects noted upon such examination; and upon the completion of his period of training and service under section 3 (b), each such person shall be given another physical examination and shall be given a medical statement showing any injuries, illnesses, or disabilities suffered by him during such period of training and service.

The necessity for amending this sentence from one viewpoint was brought to the attention of this committee by letter dated July 22, 1941, from Hon. Paul V. McNutt, Administrator, Federal Security Agency, which reads as follows:

FEDERAL SECURITY AGENCY,
Washington, July 22, 1941.

HON. ROBERT R. REYNOLDS,
Chairman, Senate Military Affairs Committee,
Washington, D. C.

DEAR SENATOR REYNOLDS: The health and medical committee of this Agency has referred to me the following report from the committee on neuropsychiatry of the National Research Council, in reference to the desirability of placing suitable restrictions upon the right of access of a selectee or registrant to his medical record:

"The committee on neuropsychiatry has viewed with some concern the existing provisions of the selective-service law, which make accessible to the selectee or the registrant full information regarding his record, including diagnosis. It has been pointed out in the discussions of the committee that in general medical practice, patients are not permitted access to their medical records, this practice being intended to shield patients from unhealthful suggestion. While this is true in general medical practice, it is particularly true in dealing with persons suffering from neuropsychiatric conditions. To make accessible to certain patients of this type the information regarding their diagnosis and condition might have a decidedly harmful effect upon them and might interfere substantially with their rehabilitation in the community. The committee on neuropsychiatry at its meeting on March 21, 1941, therefore voted to submit the following resolution to the health and medical committee for its consideration, realizing fully that the carrying out of this resolution would probably involve some change in the existing law:

"Resolved, That it is the consensus of opinion of this committee that, in the interests of the registrant or man in service, suitable restrictions should be placed on his right of access to his medical record with the draft board or with the armed services, in the interest of his mental health."

This report was approved by the health and medical committee and referred to me for appropriate action. May I say that I consider the report to have real merit, and I am calling it to your attention in the hope that some method may be found whereby the substance of the recommendation may be put into effect.

The membership of the committee on neuropsychiatry which submitted this report is as follows:

Dr. Winfred Overholser (chairman), superintendent, St. Elizabeths Hospital; professor, psychiatry, George Washington University, School of Medicine, Washington, D. C.

Dr. Franklin Ebaugh, professor, psychiatry, University of Colorado School of Medicine, Denver, Colo.

Dr. Foster Kennedy, professor, clinical neurology, Cornell University Medical College, New York, N. Y.

Dr. Adolf Meyer Henry Phipps, professor, psychiatry, Johns Hopkins University School of Medicine, Baltimore, Md.

Dr. Tracy J. Putnam, professor, neurology and neuro-surgery, Columbia University College of Physicians and Surgeons, New York, N. Y.

Dr. Harry Steckel, professor, psychiatry, Syracuse University College of Medicine, Syracuse, N. Y.

Dr. John C. Whitehorn (secretary), professor, psychiatry, Washington University School of Medicine, St. Louis, Mo.

I mention this membership merely to indicate to you the high professional standing of the committee from which this report originated.

Sincerely yours,

PAUL V. McNUTT, *Administrator.*

Mr. McNutt's letter was referred to the Secretary of War, and to the Director of the Selective Service System for consideration.

General Hershey replied as follows:

NATIONAL HEADQUARTERS, SELECTIVE SERVICE SYSTEM,
Washington, D. C., August 27, 1941.

HON. ROBERT R. REYNOLDS,
United States Senate.

DEAR SENATOR REYNOLDS: We are in receipt of your letter of August 5, 1941, enclosing a letter from the Honorable Paul V. McNutt with regard to a recommendation made by the committee on neuropsychiatry of the National Research Council.

The matter of amending Mobilization Regulations (MR 1-7, sec. II, par. 13 g) is wholly within the province of the War Department. These regulations require that the registrant be furnished a copy of W. D., A. G. O. Form 221.

The recommendation of the committee on neuropsychiatry is not wholly concurred in by National Headquarters for Selective Service, as it is not believed that access to a registrant's file should be denied the registrant. We are of the opinion, however, that much can be gained by striking the reference in paragraph 433 c of the Selective Service Regulations, which, in accordance with MR 1-7, section II, paragraph 13 g, provide that a registrant rejected at the induction station, or by the local board, shall be given a copy of his Selective Service medical examination report. A study is being made at the present time to comply with this suggestion of amending the Selective Service regulations.

It has also been found that on many occasions registrants when examining DSS Form 200 have learned of certain psychiatric reasons for rejection which have caused the registrant unwarranted distress. This practice of entering the psychiatric reasons for rejection in terms understandable to the layman has continued to occur, in spite of instructions to the contrary, and steps are being taken to correct this practice.

We are taking this matter up with the War Department, and making specific recommendations in the hope that corrective measures can be taken.

Sincerely yours,

(Signed) LEWIS B. HERSHEY,
Director.

Secretary Stimson replied as follows:

WAR DEPARTMENT,
Washington, November 14, 1941.

HON. ROBERT R. REYNOLDS,
Chairman, Committee on Military Affairs,
United States Senate.

DEAR SENATOR REYNOLDS: Reference is made to your letters of August 4, and September 2, 1941, with respect to placing suitable restrictions upon the right of a selectee or registrant to his medical record.

Mobilization regulations have been amended to provide that, when a registrant is rejected for disability, no copy of the report of physical examination be furnished him.

Both Public Resolution No. 96, Seventy-sixth Congress, approved August 27, 1940, and Public Law No. 783, Seventy-sixth Congress, approved September 16, 1940, as amended, provide similarly that each person assigned to active duty, ordered into active military service, or inducted into the land or naval forces thereunder shall be given a physical examination at the beginning of active duty or service and a medical statement showing any physical defects noted upon such examination, and that upon the completion of the period of active duty or service each such person shall be given another physical examination and a medical statement showing any injuries, illnesses, or disabilities suffered by him during the period of his active duty or service.

The matter of sponsoring legislation to amend the laws so as not to require that medical statements be furnished, is being considered in the War Department.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

On March 9, 1942, Secretary Stimson addressed the committee giving reasons for amending the law and enclosing draft of a proposed bill. His letter reads as follows:

WAR DEPARTMENT,
Washington, March 9, 1942.

Hon. ROBERT R. REYNOLDS,
*Chairman, Committee on Military Affairs,
United States Senate.*

DEAR SENATOR REYNOLDS: The War Department has considered your letters of August 4 and September 2, 1941, with respect to placing suitable restrictions upon the right of those officers and men relieved from active duty being furnished medical statements disclosing illnesses, injuries or disabilities suffered during the period of active duty or service.

The War Department has reached the conclusion that the present provisions of law providing for the furnishing of medical statements should be repealed in their entirety, and there follows sundry aspects with respect to the problem:

To provide the necessary information for furnishing the medical statements to those persons performing military service under the mentioned statutes, War Department, Adjutant General's office, Form No. 258 (physical record), was devised. When a soldier reports at sick call, dental clinic, out-patient clinic, or is admitted to a hospital, this form must accompany him and this procedure, necessary under present laws, has presented the following administrative problems:

(a) *Sick call.*—A special clerk is needed to type entries on the form, and the return of men to duty is delayed until the surgeon can dictate or write in the entries and sign each report. Many soldiers, for various reasons, will not have the form and the clerk therefore must note the complaint, locate the form, and later contact the surgeon to complete the entry.

(b) *Out-patient clinic.*—A soldier who is sick or injured in many instances reports in an emergency and rarely has the form in his possession. The clinic must locate the form, make the entries and return it to the soldier's company where the record is preserved. A further difficulty is encountered in that certain treatments, such as physiotherapy, massage, irrigations, etc., require the soldier to report to the out-patient clinic at frequent intervals over a long period of time and entries must be made on the form accordingly.

(c) *Dental clinic.*—Most cases require a number of sittings and the dental surgeon must spend considerable time in making the entries on the form in addition to the record which he keeps on dental forms.

(d) *Hospital.*—When a soldier is admitted to a hospital, the form is filed in the registrar's office. The daily turn-over in hospitals of large posts, camps, and stations may reach several hundred. As a result of the detailed work involved in making the entries on the form, it is impossible to return the form to the soldier's company before it may again be required for sick call, dental, or out-patient clinic purposes. One station reports the registrar's office as being constantly 2 weeks behind, in spite of two clerks being detailed to this work alone.

The difficulties mentioned above have been encountered in situations where clerical help and other facilities are available. In battle areas, it is questionable

whether the form could be adequately maintained. In addition, soldiers on detached service do not have the form in their possession and while traveling may become sick or be injured at points distant from their units. In such cases treatment will be in a military or private hospital and probably no entry will be made on the form.

The administrative complications necessitated by the requirement of furnishing the medical statements are not deemed warranted in view of the fact that information more complete and correct than that found in the form in questions available in hospital or out-patient registers and clinical records. In any event, it would be necessary to support any possible claim of an ex-soldier by the records mentioned in addition to the form under consideration.

Aside from the foregoing questions there are cogent reasons why the statement should not be furnished for the best interests of the discharged soldier or officer concerned. The World War Veterans' Act as amended provides that disclosure of information of medical nature will not be made to a claimant should such be inimical to his physical or mental interests. The Administrator of Federal Security has forwarded to you a resolution passed by the committee on neuropsychiatry of the National Research Council which has bearing on this subject. The resolution follows:

"Resolved, That it is the consensus of opinion of this committee that, in the interests of the registrant or man in service, suitable restrictions should be placed on his right of access to his medical record with the draft board or with the armed services, in the interest of his mental health."

There are conditions other than mental which, if disclosed to an officer or soldier, might be harmful to him. A provisional diagnosis of carcinoma is an example. Such information should only be imparted to the individual's private doctor.

There appear to be valid reasons for the repeal of the provision of law in question. Piecemeal legislation in the form of an amendment to meet the objections of the National Research Council will hardly suffice. Should Congress provide that medical statements might be withheld at the discretion of the medical authorities, the Army would then be confronted with a further complicating problem. The man for whom it is desired to afford protection would demand a statement or the reason for the denial of such statement. The result would be the defeat of the very safeguard it is desired to establish.

It is easily foreseen that the War Department, as a matter of administration, cannot furnish an accurate statement in all cases; that the statement, if furnished, serves no useful purpose due to the fact that other hospital and clinical records are available and adequate in all cases of importance; that to administer this provision of law entails clerical work of such cumbersome nature that the current work of the Army must suffer; and that there are cogent reasons why the statement should not be furnished in all cases. Consequently, it is urged that so much of Public Resolution No. 96, August 27, 1940 (54 Stat. 858), as amended, and the Selective Training and Service Act of 1940 (54 Stat. 885), as amended, which require such a statement to be furnished, be repealed.

The Bureau of the Budget advises that there is no objection to the submission of this proposed legislation.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

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